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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/785,136      | 02/24/2004  | Richard J. Perras    | 2378.001            | 8175             |

23405 7590 07/06/2005

HESLIN ROTHENBERG FARLEY & MESITI PC  
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ALBANY, NY 12203

EXAMINER

JULES, FRANTZ F

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3617

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                           |  |
|------------------------------|--------------------------------------|-------------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/785,136 | <b>Applicant(s)</b><br>PERRAS, RICHARD J. |  |
|                              | <b>Examiner</b><br>Frantz F. Jules   | <b>Art Unit</b><br>3617                   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-20 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                                 |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                            | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/24/2004</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains: Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 5-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldie (US 6,824,160 B2) in view of Kirk (US 2,744,762).

Goldie discloses in fig. 7 a device for servicing vehicles having tires or a method of removing a tire, the device comprising:

a jack for inserting under the tire, the fork having a first working end and a second end; a handle (54) having a first end mounted to the second end of the jack and a second free end; an axle (30) mounted to the jack; a first wheel (44a) and a second wheel (44b) rotatably mounted on the axle; a spring constituted by assembly (12a, 28) having a first end mounted to the axle (30) and a second end; a third wheel (22a) mounted to the second end of the spring.

Goldie teaches all of the features as listed above but does not disclose a fork comprising first second and a third segment. The general concept of providing a fork comprising first second and a third segment to a lifting device is well known in the art as illustrated by Kirk which discloses the teaching of a fork comprising first second and a third segment in a lifting device. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Goldie to include the use a fork comprising

Art Unit: 3617

first second and a third segment in his advantageous device for servicing vehicles as taught by Kirk in order to provide a device requiring only a relatively small degree of physical effort for lifting and moving heavy bulky articles such a tire as discloses in col 1, lines 28-31.

***Allowable Subject Matter***

3. Claims 3-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Cook, Salvicci, Sr are cited to show a related lifting device comprising a third wheel coupled to the axle by spring.

Kielinski, Bigham and Sloan et al are cited to show related lifting devices comprising a fork.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 272-6681. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 272-6684. The fax phone

Art Unit: 3617

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules  
Primary Examiner  
Art Unit 3617

FFJ

June 27, 2005

**FRANTZ F. JULES**  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Frantz F. Jules', with a long horizontal flourish extending to the right.